110TH CONGRESS
2D SESSION

S. 3040

To amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2008

Mr. LAUTENBERG (for himself, Mr. MENENDEZ, Mr. WHITEHOUSE, Mrs. CLINTON, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

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A BILL

To amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Kid-Safe Chemicals Act of 2008''.

SEC. 2. FINDINGS, POLICIES, AND GOALS.

(a) FINDINGS.—Congress finds that—

(1) the incidence of some diseases and disorders that have been linked to chemical exposures are on the rise;

(2) the metabolism, physiology, and exposure patterns of developing fetuses, infants, and children to toxic chemicals differ from those of adults, which makes children more vulnerable than adults to the harmful effects of exposure to some synthetic chemicals;

(3) unlike manufacturers of pharmaceuticals and pesticides, manufacturers of most chemical substances are not required under current law to supply human or environmental toxicity information before selling their products to the public;

(4) consequently, the vast majority of chemicals used in commercial products have never had any Federal review to evaluate potential toxicity of the produces to infants, children, developing fetuses, or adults;

(5) biomonitoring tests have shown that a fetus, infant, or child in the United States today often has many synthetic chemicals in its blood and tissue;

(6) certain chemicals that are persistent or slow to degrade and which bioaccumulate in human bod-

ies and wildlife have been found to be increasing in the environment;

(7) despite those alarming discoveries, the Environmental Protection Agency has reviewed the human health risks of only an estimated 2 percent of the 62,000 chemicals that were in use in 1976, when Congress passed the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(8) the Administrator of the Environmental Protection Agency (referred to in this Act as the ''Administrator'') has promulgated regulations to ban or restrict the use of only 5 chemical substances in 29 years, based on the excessively high administrative and legal hurdles imposed by that Act;

(9) the chemical industry is an important part of the economy of the United States that has demonstrated innovation in meeting environmental challenges and is taking voluntary steps to help ensure that the products of the industry are safe;

(10) there is significant global trade in the chemical sector and many of the companies that conduct business in the United States must also comply with chemical safety regulatory programs in other countries;

(11) the data that is generated to comply with these other regulatory programs would be useful in understanding hazards presented in the United States; and

(12) a fundamental overhaul of chemical management in the United States is needed to build a nontoxic environment for the children of the United States.

(b) POLICY.—It is the policy of the United States—

(1) to promote children's health as a paramount national goal, recognizing that developing fetuses, infants, and children are uniquely vulnerable to the harmful effects of some toxic chemicals during all stages of their development;

(2) to minimize toxic substances in the environment of children, workers, and consumers by—

(A) promoting the use of safer alternatives and other actions to reduce exposure to hazardous chemicals and reward business innovation;

(B) holding chemical manufacturers responsible for providing robust health and safety data for each chemical produced by the manufacturers prior to distribution of that chemical substance in commerce; and

(C) providing to the Administrator the authority to allow the commercial distribution of chemical substances only in cases in which data and other information indicate that there is a reasonable certainty that the chemical substances pose no harm to human health or the environment; and

(3) to guarantee that the public and workers have an absolute right to know about the hazards and health effects of the chemical substances to which they are exposed.

(c) GOAL.—It is the goal of the United States to eliminate the exposure of all children, workers, consumers, and sensitive subgroups to harmful chemicals distributed in commerce by calendar year 2020 by—

(1) identifying the highest-priority chemical substances for review by calendar year 2009;

(2)(A) making a safety determination for, at a minimum, the first 300 priority chemical substances by calendar year 2012; and

(B) banning or restricting the use of a chemical substance if it cannot be demonstrated that the substance meets the applicable safety standard;

(3)(A) making a safety determination for all chemical substances by calendar year 2020; and

(B) banning or restricting the use of those substances if it cannot be demonstrated that the substances meet the applicable safety standard; and

(4) encouraging the replacement of harmful chemicals with safer alternatives.

SEC. 3. PROTECTION OF CHILDREN'S HEALTH FROM CHEMICAL SUBSTANCES.

(a) IN GENERAL.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding at the end the following:

"TITLE V—CHILD SAFE CHEMICALS

"SEC. 501. DEFINITIONS.

''In this title:

''(1) BOARD.—The term 'Board' means the Interagency Science Advisory Board on Children's Health and Toxic Substances established under section 510(a).

''(2) DIRECTOR.—The term 'Director' means the Director of the National Center for Environmental Health at the Centers for Disease Control and Prevention.

''(3) PRIORITY LIST.—The term 'priority list' means the priority list of chemical substances developed by the Administrator under section 503(b)(1).

''(4) REASONABLE CERTAINTY.—The term 'reasonable certainty', with respect to the finding, in establishing a safety standard, that no harm will be caused by aggregate exposure of a fetus, infant, child, worker, or member of other sensitive subgroup to a chemical substance, means that—

''(A) for risks posed by a chemical substance with a nonthreshold effect, exposure to all sources of the chemical substance presents not more than a 1-in-1,000,000 risk of adverse effects in the population of concern; and

''(B) for risks posed by a chemical substance with a threshold effect, as established by the Administrator based on supporting data, an additional tenfold margin of safety shall be applied to take into account the potential vulnerability associated with in-utero, infant, or childhood exposure to all sources of the chemical substance.

''(5) SAFETY STANDARD.—The term 'safety standard' means, with respect to a chemical substance (or another chemical substance with a common mechanism of action), a standard that—

''(A) provides a reasonable certainty that no harm will be caused by aggregate exposure

of a fetus, infant, child, worker, or member of other sensitive subgroup to the chemical substance; and

''(B) is requisite to protect the public welfare from any known or anticipated adverse effects associated with the chemical substance.

''(6) TOXICOLOGICAL PROPERTY.—

''(A) IN GENERAL.—The term 'toxicological property' means actual or potential toxicity, bioconcentration, or other biological or adverse effects of a chemical substance.

''(B) INCLUSIONS.—The term 'toxicological property' includes actual or potential effects of exposure to a chemical substance on—

''(i) mortality;

''(ii) morbidity;

''(iii) reproduction;

''(iv) development;

''(v) the immune system;

''(vi) the endocrine system;

''(vii) the brain or nervous system; or

''(viii) any other biological functions in humans or animals.

"SEC. 502. MANUFACTURER SAFETY CERTIFICATIONS FOR EXISTING CHEMICALS IN COMMERCE.

"(a) SAFETY STATEMENT AND INFORMATION.—Not later than 1 year after the date of enactment of this title, each manufacturer of a chemical substance distributed in commerce shall submit to the Administrator—

"(1) a statement signed by the chief executive officer of the manufacturer certifying, based on available information after a good faith inquiry, that—

"(A) the chemical substance meets the safety standard for the chemical substance; or

"(B) there are insufficient data to determine whether the chemical substance meets that safety standard; and

"(2) all reasonably available information in the possession or control of the manufacturer that has not previously been submitted to the Administrator regarding the physical, chemical, and toxicological properties of the chemical substance, including the annual production volume and known uses of, and exposure and fate information relating to, the chemical substance.

"(b) UPDATING OF INFORMATION.—Each manufacturer of a chemical substance described in subsection (a)

shall update and submit to the Administrator the information described in subsection (a)(2)—

''(1) at a minimum, every 3 years; and

''(2) at any time at which there becomes available significant new information regarding a physical, chemical, or toxicological property of, or exposure to, the chemical substance, including, at a minimum, any information that—

''(A) demonstrates a new potential toxic effect of the chemical substance;

''(B) corroborates previous information demonstrating or suggesting a toxic effect; or

''(C) suggests a toxic effect at a lower dose than previously demonstrated.

''SEC. 503. PRIORITY LIST OF CHEMICAL SUBSTANCES FOR EPA SAFETY DETERMINATION.

''(a) CATEGORIZATION.—Not later than 5 years after the date of enactment of this title, the Administrator shall publish in the Federal Register a list of all chemical substances distributed in commerce that categorizes the chemical substances, based on existing information available to the Administrator, into 1 or more of the following categories:

''(1) Chemical substances that meet 1 or more of the criteria described in subsection (c), with each such enumerated criterion being a separate category.

''(2) Chemical substances for which available information is insufficient to determine whether the chemical substances meet any of the criteria referred to in paragraph (1).

''(b) PRIORITY LIST.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of this title, the Administrator shall develop and publish a priority list of not less than 300 chemical substances for which safety determinations under section 504 shall first be made.

''(2) UPDATING OF LIST.—The Administrator shall add at least 200 chemical substances to the priority list annually until all chemical substances that meet the criteria described in subsection (c) have been added to the priority list.

''(3) PETITION.—Not later than 180 days after the date on which the Administrator receives from any individual or entity a petition to nominate a chemical substance for addition to the priority list, the Administrator shall determine whether to add

the nominated chemical substance to the priority list.

''(c) CRITERIA FOR IDENTIFYING PRIORITIZED CHEMICAL SUBSTANCES.—In developing or updating the priority list, the Administrator shall take into account all relevant data with respect to chemical substances considered for inclusion on the priority list, including whether a chemical substance—

''(1) or the metabolite or degradation byproduct of the chemical substance, is found in human blood, fluids, or tissue, unless the chemical substance is not synthetic and is naturally present at the level commonly found in blood, fluids, or tissue;

''(2) is found in food, drinking water, or indoor air, unless the chemical substance is not synthetic and is naturally present at the level commonly found in food, drinking water, or indoor air;

''(3) is manufactured or discharged into the environment at a volume of more than 1,000,000 pounds annually;

''(4) is a known or suspected reproductive, neurological, or immunological toxicant, carcinogen, mutagen, or endocrine disruptor, or causes negative developmental effects or has other toxicological properties of concern; or

''(5) is persistent or bioaccumulative.

''(d) TREATMENT AS FINAL AGENCY ACTION; NONDISCRETIONARY DUTY.—

''(1) TREATMENT AS FINAL AGENCY ACTION.—Neither categorization of a chemical substance under subsection (a), nor inclusion of a chemical substance on the priority list, shall be considered to be a final agency action for the purpose of subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as 'the Administrative Procedure Act').

''(2) NONDISCRETIONARY DUTY.—The failure of the Administrator to categorize chemical substances or issue or update the priority list in accordance with this section shall be considered to be a failure to perform a nondiscretionary duty.

"SEC. 504. EPA SAFETY STANDARD DETERMINATION FOR CHEMICAL SUBSTANCES.

''(a) IN GENERAL.—

''(1) RISK.—The Administrator shall interpret a reasonable certainty of no harm under this section to mean that—

''(A) for risks posed by chemical substances with nonthreshold effects, aggregate exposure to the chemical substance presents not

more than a 1 in 1,000,000 risk of adverse effects in the population of concern; and

''(B) for risks posed by chemical substances with threshold effects, an additional tenfold margin of safety shall be applied to take into account the potential vulnerability associated with in-utero, infant, or childhood exposure to all sources of the chemical substance.

''(2) ASSUMPTION.—The Administrator shall not assume a threshold exposure level for any adverse effect of a chemical substance unless the Administrator determines that the manufacturer has established the existence of a threshold level for the adverse effect for the chemical substance.

''(b) SAFETY DETERMINATION.—

''(1) PRIORITY CHEMICALS.—

''(A) IN GENERAL.—Not later than 3 years after the date on which a chemical substance is placed on the priority list, the Administrator—

''(i) beginning with the 300 chemical substances first listed on the priority list, shall determine whether the manufacturer of each chemical substance has established that the chemical substance meets the safety standard; and

"(ii) in making that determination, may consider any risk reduction achieved pursuant to section 507.

"(B) INTERIM STANDARDS.—

"(i) NOTICE OF PENDING DETERMINATION.—If the Administrator fails to act by an applicable deadline under subparagraph (A), a manufacturer of a chemical substance affected by the failure to act shall issue to the Administrator, the public, and each known customer of the chemical substance a written notice that a determination by the Administrator of the safety of the chemical substance is pending.

"(ii) FAILURE OF ADMINISTRATOR TO ACT.—Not later than 5 years after the date on which a chemical substance is placed on the priority list, if the Administrator has not made a determination under subparagraph (A) with respect to the chemical substance, the chemical substance shall not be manufactured, imported, or distributed in commerce.

"(2) OTHER CHEMICAL SUBSTANCES.—Not later than 15 years after the date of enactment of

this title, and every 15 years thereafter, the Administrator shall assess, or reassess, as the case may be, whether the manufacturer of each chemical substance distributed in commerce as of that date has established that the chemical substance meets the safety standard.

''(3) NEW CHEMICAL SUBSTANCES.—As of the date that is 90 days after the date of enactment of this title, no new chemical substance shall be distributed in commerce unless the Administrator determines that the manufacturer of the chemical substance has established that the chemical substance meets the safety standard, as determined by the Administrator.

''(4) NEW INFORMATION.—The Administrator may redetermine whether a manufacturer of a chemical substance distributed in commerce has established that the chemical substance meets the safety standard if, in the judgment of the Administrator, new information raises a credible question as to whether the chemical substance continues to meet the safety standard.

''(c) INFORMATION.—In making a determination with respect to a chemical substance under subsection (b), the

Administrator, based upon the information collected under subsection (b), shall take into account—

''(1) environmental fate and transport of the chemical substance, including—

''(A) degradation;

''(B) persistence in the environment;

''(C) mobility; and

''(D) distribution across environmental media;

''(2) biological fate and transport of the chemical substance, including—

''(A) metabolism;

''(B) bioaccumulation and biomagnification potential; and

''(C) toxicokinetics;

''(3) acute, subchronic, and chronic human health effects of exposure to the chemical substance, including reproductive, developmental, genotoxic, neurotoxic, immunotoxic, and endocrine-disrupting effects;

''(4) the potential for additive or synergistic effects to result from exposure to multiple chemical substances;

''(5) the ecotoxicity of the chemical substance to avian, terrestrial, and aquatic species;

''(6) the presence of the chemical substance in, at a minimum—

''(A) human blood, fluids, and tissue; and

''(B) food, drinking water, and indoor air;

''(7) the uses of the chemical substance and associated known and potential releases and exposures;

''(8) the potential effects of the chemical substance resulting from low-dose exposures;

''(9) the timing of exposure during sensitive stages of human development; and

''(10) the size, shape, and surface properties, and any other physical characteristics, of the chemical substance that may effect the toxicity, hazards, or exposure of the chemical substance.

''SEC. 505. ADDRESSING PRENATAL EXPOSURES.

''(a) MONITORING PRENATAL EXPOSURE.—If, through studies performed pursuant to section 506(d) or by other means, the Administrator identifies a chemical substance that may be present in human blood, fluids, or tissue, the Administrator shall arrange for the Director to conduct, not later than 2 years after the date on which the Administrator makes the identification, a biomonitoring study to determine the presence of the chemical substance in human cord blood.

''(b) PUBLICATION.—Upon completion of the study conducted under subsection (a)—

''(1) the Director shall inform the Administrator of the results of the study; and

''(2) the Administrator shall publish the results on the Internet.

''(c) PRIORITY LIST CHEMICAL SUBSTANCES FOUND IN HUMAN CORD BLOOD.—

''(1) IN GENERAL.—Any chemical substance that is on the priority list because the chemical substance meets criteria described in paragraph (4) or (5) of section 503(c) and is found to be present in human cord blood under this section shall be presumed by the Administrator to have failed to meet the safety standard under section 504.

''(2) REBUTTAL.—The presumption under paragraph (1) may be rebutted only if the Administrator determines that the chemical substances meets the safety standard under section 504.

''SEC. 506. COLLECTION OF CHEMICAL SAFETY INFORMATION.

''(a) IN GENERAL.—On receipt of a request from the Administrator, a manufacturer of a chemical substance shall provide to the Administrator all information requested under this section.

''(b) MINIMUM DATA REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this title, the Administrator shall establish minimum data requirements that would ensure that determinations under section 504 are based on sufficient and reliable data.

''(2) REQUIREMENTS.—The minimum data requirements shall—

''(A) at a minimum, require the submission of information sufficient to determine whether a chemical substance has the potential—

''(i) to persist or bioaccumulate in humans or nonhuman organisms;

''(ii) to cause skin irritation or skin sensitization;

''(iii) to cause mutations, cytogenicity, or chromosomal aberrations;

''(iv) to cause acute or chronic toxicity in humans;

''(v) to cause reproductive or developmental toxicity in humans;

''(vi) to cause acute or chronic toxicity in aquatic organisms;

''(vii) to persist in the environment; or

"(viii) to degrade into substances that have the potential to exhibit any of the effects described in clauses (i) through (vii); and

"(B) include the requirement to submit—

"(i) production, processing, use, and exposure-related information;

"(ii) an assessment of the number of workers reasonably likely to be exposed to the chemical substance at the site of manufacture; and

"(iii) a description of the commercial and consumer uses of the chemical substance.

"(c) TIERING PROCESS.—The Administrator may develop a tiering process for use in the submission of the information under this section.

"(d) BIOMONITORING.—

"(1) IN GENERAL.—Not later than 2 years after the date of enactment of this title, and every 3 years thereafter, the Director shall, at the expense of manufacturers of chemical substances, carry out a biomonitoring study to determine the presence in human blood, fluids, or tissue for any chemical substance that is—

"(A) manufactured in quantities greater than 1,000,000 pounds during 1 calendar year; or

"(B) distributed in commerce—

"(i) to which humans are exposed; and

"(ii) for which there is cause for concern regarding the exposure (as determined by the Administrator), such as a potential for persistence or bioaccumulation of the chemical substance.

"(2) USER FEE.—Not later than 1 year after the date of enactment of this title, the Director shall establish a user fee program to ensure that the manufacturer of a chemical substance provides the necessary funds to carry out a biomonitoring study for the chemical substance pursuant to paragraph (1).

"(3) STANDARD.—The Administrator shall by regulation establish a standard for biomonitoring studies under this subsection that includes—

"(A) the use of a representative sample that ensures that likely exposed populations, including children, are oversampled; and

"(B) a determination of appropriate detection levels of chemical substances.

''(4) SUBSTANCE DETECTION.—A manufacturer of a chemical substance that is subject to paragraph (1) shall make available to the public a practicable method (as determined by the Administrator) for use in detecting the presence of the chemical substance (or any metabolite of the chemical substance) in human blood, fluids, and tissue.

"SEC. 507. REDUCTION OF HEALTH HAZARDS FOR CHILDREN, WORKERS, AND CONSUMERS.

''(a) MARKET RESTRICTIONS.—No person shall manufacture, import, or distribute in commerce a chemical substance if—

''(1) the Administrator determines that the person failed to act in accordance with section 502 or section 506; or

''(2) the Administrator determines that the chemical substance does not meet the applicable safety standard.

''(b) USE EXEMPTIONS.—

''(1) IN GENERAL.—In any case in which a chemical substance does not meet the safety standard because of an aggregation of exposure, the Administrator, upon receipt of a petition or upon the initiative of the Administrator, may allow manufacturing for a specified use of the chemical substance

if the Administrator determines that the manufacturer has established that the use meets the safety standard on an ongoing and verifiable basis.

''(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Administrator shall consider exposures pursuant to other use exemptions issued by the Administrator.

''(3) LIMITATION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a use exemption issued under this subsection shall remain in effect for not longer than 5 years.

''(B) SUBSEQUENT USE EXEMPTIONS.—The Administrator may issue subsequent use exemptions that may remain in effect for not longer than 5 years.

''(c) UNSAFE CHEMICAL SUBSTANCES FOUND IN PRODUCTS.—The Administrator may prohibit a specified use of a chemical substance in consumer products if, after providing public notice and an opportunity for comment, the Administrator determines that the use of the product in the home results in human exposure that does not meet the safety standard.

''(d) OTHER EXEMPTION.—

''(1) IN GENERAL.—The President, in a nondelegable capacity, may make an exemption from this section for a specific use of a chemical substance for a period of not to exceed 5 years if, after providing public notice and an opportunity for comment, the President determines that—

''(A) an exemption is in the paramount interest of national security, or the lack of availability of the chemical substance would cause significant disruption in the national economy; and

''(B) no feasible alternative for the specified use of the chemical substance is available.

''(2) RENEWABILITY.—The President may renew an exemption under paragraph (1) for 1 or more additional 5-year periods if the President concludes, after providing public notice and an opportunity for comment, that a renewal is necessary.

''(3) PUBLIC NOTICE.—If the President grants an exemption for a chemical substance under this subsection—

''(A) the manufacturer of the chemical substance shall provide notice of the exemption to each known customer of the manufacturer; and

''(B) the President shall provide the public with a notice of the exemption.

''(e) OTHER AGENCY RULEMAKINGS.—The Administrator shall consider any safety determination for a chemical substance pursuant to section 504, and any market restriction and use exemption pursuant to this section, in the exercise of other relevant agency rulemakings.

''SEC. 508. ANIMAL TESTING ALTERNATIVES.

''(a) ALTERNATIVES TO ANIMAL TESTING.—

''(1) IN GENERAL.—To minimize the use of animal testing of chemical substances, the Administrator shall—

''(A) require the use, where practicable, of—

''(i) existing data to fill data gaps by calling for mandatory disclosure of all existing data, and thoroughly investigating sources of existing data;

''(ii) replacement alternatives that—

''(I) do not involve the use of an animal to test the chemical substance; and

''(II) provide information that is equivalent in scientific quality to the animal testing method; and

''(iii) reduction alternatives that use fewer animals than conventional animal-based tests when replacement alternatives are impracticable, including the use of tests that combine 2 or more endpoints;

''(B) encourage, where practicable—

''(i) the grouping of similar chemicals into categories to limit testing to only those chemicals which are representative of the group; and

''(ii) the forming of industry consortia to jointly conduct testing to avoid duplication of tests; and

''(C) fund research and validation studies to reduce and replace the use of animal tests in accordance with this paragraph.

''(2) LIST OF ALTERNATIVE TESTING METHODS.—Not later than 1 year after the date of enactment of this title, and triennially thereafter, the Administrator, in consultation with the Board, shall publish a list of the alternative testing methods described in paragraph (1).

''(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000.

"SEC. 509. SAFER ALTERNATIVES AND GREEN CHEMISTRY.

''(a) SAFER ALTERNATIVES PROGRAM.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Administrator shall establish a program to create market incentives for the development of safer alternatives to existing chemical substances.

''(2) REQUIREMENTS.—The program under paragraph (1) shall include—

''(A) expedited review of new chemical substances for which the manufacturer submits an alternatives analysis indicating that the new chemical substance is the safer alternative for a particular use than existing chemical substances used for the same purpose;

''(B) recognition for a chemical substance determined by the Administrator to be a safer alternative for a particular use by means of a special designation intended for use in marketing the safer alternative, and periodic public awards; and

''(C) such other incentives as the Administrator considers to be appropriate to encourage the development, marketing, and use of chemical substances determined by the Adminis-

trator to be safer alternatives for the particular uses.

''(b) GREEN CHEMISTRY RESEARCH AND CLEARINGHOUSE NETWORK.—

''(1) IN GENERAL.—The Administrator shall establish a network of not less than 4 green chemistry and technology research and clearinghouse centers, located in various regions of the United States, to support the development and adoption of safer alternatives to chemical substances, particularly chemical substances placed on the priority list.

''(2) REQUIREMENTS.—The research and clearinghouse centers described in paragraph (1) shall—

''(A) provide technical assistance relating to alternatives analysis, green chemistry, and green technology techniques to small and medium-sized manufacturers of chemical substances;

''(B) provide technical training relating to alternatives analysis, green chemistry, chemicals policy, and green technology techniques to students and professionals;

''(C) conduct alternatives analysis, green chemistry, and green technology research; and

''(D) provide grants to promote and support the research, development, adoption, and use of alternatives to the activities identified in subparagraphs (A), (B), and (C).

''SEC. 510. INTERAGENCY SCIENCE ADVISORY BOARD ON CHILDREN'S HEALTH AND TOXIC SUBSTANCES.

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of this title, the Administrator shall establish an advisory board, to be known as the 'Interagency Science Advisory Board on Children's Health and Toxic Substances'.

''(2) COMPOSITION.—The Board shall be composed of, at a minimum, representatives of—

''(A) the National Institute of Environmental Health Sciences;

''(B) the Centers for Disease Control and Prevention;

''(C) the National Toxicology Program;

''(D) the National Cancer Institute;

''(E) the National Tribal Science Council; and

''(F) not fewer than 3 centers of children's health at leading universities.

''(b) PURPOSES.—The purposes of the Board shall be—

''(1) to provide independent advice and peer review to the Administrator and Congress on the scientific and technical aspects of problems and issues relating to the requirements of this title;

''(2) to review the scientific and technical basis for the standards, rules, guidance, and other science-based decisions under this title, including the provision of expert consultation and advice to the Administrator; and

''(3) to reduce the duplication of the efforts by manufacturers to—

''(A) comply with this title; and

''(B) reduce the testing of chemical substances on animals.

''SEC. 511. COOPERATION WITH INTERNATIONAL EFFORTS.

''In cooperation with the Secretary of State and the head of any other appropriate Federal agency (as determined by the Administrator), the Administrator shall cooperate with any international effort—

''(1) to develop a common protocol or electronic database relating to chemical substances; or

''(2) to develop safer alternatives for chemical substances.

"SEC. 512. PUBLIC ACCESS TO INFORMATION.

''(a) TRANSMISSION TO ADMINISTRATOR.—Each Federal agency and Federal institution shall submit to the Administrator all information provided to the Federal agency or institution relating to a hazard of, or risk of exposure to, a chemical substance.

''(b) ELECTRONIC DATABASE.—Not later than 1 year after the date of enactment of this title, the Administrator, in collaboration with interested parties, shall establish—

''(1) a consistent format for the submission of data to an electronic, Internet-accessible database for storing and sharing of information relating to the toxicity and use of, and exposure to, chemical substances; and

''(2) procedures for use in maintaining the database.

''(c) PUBLIC ACCESS.—Not later than 18 months after the date of enactment of this title, the Administrator shall make available to the public via the Internet-accessible database described in subsection (b)(1)—

''(1) any information provided to the Administrator relating to the properties and hazards of a chemical substance; and

''(2) any other nonconfidential information relating to a chemical substance that is provided to the Administrator.

''(d) RELIABLE INFORMATION.—The Administrator shall establish and implement procedures to ensure data reliability that include—

''(1) not less than 1 time each year, the Administrator shall randomly inspect not less than 3 percent of the commercial and private laboratories which develop the data required by the title on the various properties and characteristics of a chemical substance;

''(2) annually, the Administrator shall perform a comprehensive data audit on a statistically significant number of the data submissions submitted by manufacturers under this title;

''(3) the Administrator shall establish and maintain a registry of all health and safety related-studies initiated in response to requirements or information requests made under this title to ensure that results of all initiated studies are reported and made available to the Administrator, along with details of the method utilized in each study; and

''(4) the Administrator shall have access to all records of privately sponsored health and safety-related studies initiated in response to requirements or information requests made under this title.

"SEC. 513. CONFIDENTIAL BUSINESS INFORMATION.

"(a) IN GENERAL.—If a manufacturer of a chemical substance submits to the Administrator or any other Federal agency or institution any information that the manufacturer requests be treated as confidential business information (as defined in section 350.27 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this title)), the chief executive officer of the manufacturer shall, at the time the information is submitted, provide to the Administrator—

"(1)(A) a written statement that identifies the specific information to which the request applies;

"(B) a justification indicating the particular reasons why the information needs to be kept confidential; and

"(C) any other documentation required pursuant to subsection (b)(1);

"(2) the period of time for which the information is requested to be kept confidential, including a justification for the specified time period; and

"(3) certification that the information is not otherwise publicly available.

"(b) DUTIES OF THE ADMINISTRATOR.—The Administrator shall—

''(1) not later than 1 year after the date of enactment of this title, develop and make publicly available standards that specify—

''(A) the acceptable bases on which requests to keep submitted information confidential may be made; and

''(B) the documentation that must accompany those requests;

''(2) not later than 90 days after the date of receipt of information under subsection (a)—

''(A) review all requests to keep the submitted information confidential; and

''(B) decide whether to accept or reject each such request based on whether the request and accompanying documentation comply with the standards developed under paragraph (1); and

''(3) if such a request is accepted, specify a time period of not greater than 5 years for which the request is granted, and after which period the information will no longer be kept confidential unless a new request for confidentiality is submitted to and accepted by the Administrator under this section.

''(c) ACCESS TO CONFIDENTIAL BUSINESS INFORMATION BY OTHER GOVERNMENTS.—

''(1) IN GENERAL.—Confidential business information received by the Administrator shall be made available upon request to a State, tribal, or municipal government—

''(A) for the purpose of administration or enforcement of a law; and

''(B) in accordance with any applicable agreements that ensure that the recipient government takes appropriate steps to maintain the confidentiality of the information in accordance with this section and section 350.27 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this title).

''(2) OTHER INFORMATION.—The Administrator shall make available to a State, tribal, or local government information identifying the location of the manufacture, processing, or storage of a chemical substance upon the request of the government.

''(d) INFORMATION FROM FOREIGN COUNTRIES.—Except as provided in subsection (c), any information provided to the Administrator by an officer or employee of a foreign government shall be considered to be confidential business information, if the information is considered to be confidential business information by the officer or employee of the foreign government.

''(e) NONCONFIDENTIAL INFORMATION.—The name of a chemical substance, and all information concerning the effects of the chemical substance on human health or the environment, shall not be considered to be confidential business information under this section.

''SEC. 514. RELATIONSHIP TO OTHER LAW.

''Nothing in this title affects the right of a State or political subdivision of a State to adopt or enforce any regulation, requirement, liability, or standard of performance that is more stringent than a regulation, requirement, liability, or standard of performance established by this title.''.

(b) EFFECT OF SECTION.—Notwithstanding the amendment made by subsection (a), any regulation promulgated (including any prohibition or restriction issued) under the provisions repealed by that subsection before the date of enactment of this Act shall remain in effect until the date on which the Administrator of the Environmental Protection Agency promulgates new regulations under title V of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) (as added by subsection (a)).

(c) CONFORMING AMENDMENTS.—

(1) TESTING OF CHEMICAL SUBSTANCES AND MIXTURES.—Section 4 of the Toxic Substances Control Act (15 U.S.C. 2603) is amended—

(A) in subsection (f), in the matter following paragraph (2), by inserting ", or title V," after "section 5, 6, or 7"; and

(B) in subsection (g), in the first sentence, by inserting "or title V" after "section 5(a)".

(2) MANUFACTURING AND PROCESSING NOTICES.—Section 5 of the Toxic Substances Control Act (15 U.S.C. 2604) is amended—

(A) in subsection (b)—

(i) in paragraph (1)(A)(ii), by inserting "or title V" after "section 4"; and

(ii) in paragraph (2)(A)(ii), by inserting "or title V" after "section 4";

(B) in subsection (d)(2)(C), by inserting "or title V" after "section 4";

(C) in subsection (e)(2)(D), in the first sentence, by inserting "or title V" after "section 6(a)";

(D) in subsection (f)—

(i) in paragraph (1), by inserting "or title V" after "section 6";

(ii) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or title V" after "section 6(a)"; and

(iii) in paragraph (3)(B), by inserting ''or title V'' after ''section 6''; and

(E) in subsection (g), by inserting '', or title V,'' after ''section 6 or 7''.

(3) IMMINENT HAZARDS.—Section 7 of the Toxic Substances Control Act (15 U.S.C. 2606) is amended—

(A) in subsection (a)—

(i) in paragraph (1), in the matter following subparagraph (C)—

(I) by striking ''section 4, 5, 6, or title IV'' and inserting ''section 4, 5, or 6, or title IV or V,''; and

(II) by striking ''section 5 or title IV'' and inserting ''section 5 or title IV or V''; and

(ii) in paragraph (2), by inserting ''title V or'' before ''section 6(a)''; and

(B) in subsection (f), in the second sentence, by inserting ''or title V'' after ''section 6''.

(4) REPORTING AND RETENTION OF INFORMATION.—Section 8 of the Toxic Substances Control Act (15 U.S.C. 2607) is amended—

(A) in subsection (a)(3)(A)(ii)—

(i) in subclause (I), by inserting ''or title V,'' after ''or 6,''; and

(ii) in subclause (II), by inserting ''or title V'' after ''section 5 or 7''; and

(B) in subsection (b)(1)—

(i) in the first sentence, by striking ''section 5 or subsection (a) of this section'' and inserting ''subsection (a), section 5, or title V''; and

(ii) in the second sentence, by inserting ''or title V'' after ''section 5''.

(5) RELATIONSHIP TO OTHER FEDERAL LAWS.—Section 9(a) of the Toxic Substances Control Act (15 U.S.C. 2608(a)) is amended—

(A) in paragraph (2), in the matter following subparagraph (B), by inserting ''or title V'' after ''section 6 or 7''; and

(B) in paragraph (3), by inserting ''or title V'' after ''section 6 or 7''.

(6) EXPORTS.—Section 12 of the Toxic Substances Control Act (15 U.S.C. 2611) is amended—

(A) in subsection (a)(2), by inserting ''or title V'' after ''section 4''; and

(B) in subsection (b)—

(i) in paragraph (1), by inserting ''or title V'' after ''section 4 or 5(b)''; and

(ii) in paragraph (2)—

(I) by inserting ''or title V'' after ''issued under section 5'';

(II) by inserting ''or title V'' after ''section 5 or 6''; and

(III) by inserting ''or title V'' after ''section 5 or 7''.

(7) ENTRY INTO CUSTOMS TERRITORY OF THE UNITED STATES.—Section 13(a)(1) of the Toxic Substances Control Act (15 U.S.C. 2612(a)(1)) is amended by striking subparagraph (B) and inserting the following:

''(B) the substance, mixture, or article is offered for entry in violation of section 5, 6, or 7, or title IV or V.''.

(8) DISCLOSURE OF DATA.—Section 14(b)(1)(A)(ii) of the Toxic Substances Control Act (15 U.S.C. 2613(b)(1)(A)(ii)) is amended by striking ''for which testing'' and all that follows through ''section 5,'' and inserting ''for which testing or a notification is required under section 4 or 5 or title V;''.

(9) PROHIBITED ACTS.—Section 15 of the Toxic Substances Control Act (15 U.S.C. 2614) is amended—

(A) by striking paragraph (1) and inserting the following:

''(1) fail or refuse to comply with any rule or requirement under section 4, 5, or 6, or title II or V; and''; and

(B) in paragraph (2), by striking ''violation of section 5'' and all that follows through ''section 5 or 7'' and inserting ''violation of section 5, 6, or 7, or title V''.

(10) SPECIFIC ENFORCEMENT AND SEIZURE.—Section 17(a)(1) of the Toxic Substances Control Act (15 U.S.C. 2616(a)(1)) is amended—

(A) by striking subparagraph (B) and inserting the following:

''(B) restrain any person from taking an action prohibited under section 5 or 6, or title IV or V; and'';

(B) in subparagraph (D), by striking ''direct any manufacturer'' and all that follows through ''and distributed in commerce'' and inserting ''direct any manufacturer or processor of a chemical substance, mixture, or project

subject to title IV or V manufactured or processed in violation of a rule, order, or requirement under section 5 or 6 or title IV or V, and distributed in commerce''.

(11) PREEMPTION.—Section 18 of the Toxic Substances Control Act (15 U.S.C. 2617) is amended to read as follows:

''SEC. 18. PREEMPTION.

''Nothing in this Act affects the authority of a State or political subdivision of a State to establish or continue in effect any regulation of a chemical substance, mixture, or article containing a chemical substance or mixture.''.

(12) JUDICIAL REVIEW.—Section 19 of the Toxic Substances Control Act (15 U.S.C. 2618) is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (A), in the first sentence, by striking ''title II or IV'' and inserting ''title II, IV, or V''; and

(II) in subparagraph (B), by inserting ''or title V'' after ''section 6(b)(1)''; and

(ii) in paragraph (3), by striking subparagraph (B) and inserting the following:

''(B) with respect to a rule or finding under section 4, 5, or 6, or title IV or V, the finding required for the issuance of the rule;''; and

(B) in subsection (c)(1)(B)—

(i) in clause (i), by inserting '', or title V,'' after ''6(e)''; and

(ii) in clause (iii)(I), by striking ''section 6(c)(1), or'' and inserting ''section 6(c)(1) or title V; or''.

(13) CITIZENS' CIVIL ACTIONS.—Section 20(a)(1) of the Toxic Substances Control Act (15 U.S.C. 2619(a)(1)) is amended by striking ''title II or IV'' each place it appears and inserting ''title II, IV, or V''.

(14) CITIZENS' PETITIONS.—Section 21 of the Toxic Substances Control Act (15 U.S.C. 2620) is amended—

(A) in subsection (a), by striking ''a rule under'' and all that follows through ''section 6(b)(2)'' and inserting ''a rule or order under section 4, 5, 6, or 8, or title V''; and

(B) in subsection (b)—

(i) in paragraph (1), by striking ''a rule under'' and all that follows through ''section 6(b)(1)(B)'' and inserting ''a rule or order under section 4, 5, 6, or 8, or title V'';

(ii) in paragraph (3), in the first sentence, by inserting '', or title V'' after ''section 4, 5, 6, or 8''; and

(iii) in paragraph (4)(B)—

(I) in the matter preceding clause (i), by striking ''section 4'' and all that follows through ''section 6(b)(2)'' and inserting ''rule or order under section 4, 5, 6, or 8, or title V'';

(II) in clause (i), by striking ''a rule under'' and all that follows through ''section 5(e)'' and inserting ''a rule or order under section 4 or 5 or title V''; and

(III) in clause (ii), by striking ''under section 6'' and all that follows through ''section 6(b)(2)'' and inserting ''or order under section 6 or 8 or title V''.

(15) EMPLOYMENT EFFECTS.—Section 24 of the Toxic Substances Control Act (15 U.S.C. 2623) is amended—

(A) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—The Administrator shall evaluate, on a continuing basis, the potential effects on employment (including reductions in employment or loss of employment from threatened plant closures) of each rule, order, and requirement under sections 4, 5, and 6, and title V.''; and

(B) in subsection (b)—

(i) in paragraph (1), in the matter following subparagraph (B), by striking ''a rule or order'' and all that follows through ''section 5 or 6'' and inserting ''a rule, order, or requirement under section 4, 5, or 6, or title V''; and

(ii) in paragraph (2)(B)(ii), by striking ''section 6(c)(3), and'' and inserting ''section 6(c)(3) and title V; and''.

(16) ADMINISTRATION OF THE ACT.—Section 26(b)(1) of the Toxic Substances Control Act (15 U.S.C. 2625(b)(1)) is amended by inserting ''or title V'' after ''section 4 or 5'' each place it appears.

(17) DEVELOPMENT AND EVALUATION OF TEST METHODS.—Section 27(a) of the Toxic Substances Control Act (15 U.S.C. 2626(a)) is amended by inserting ''or title V'' after ''section 4'' each place it appears.

(18) ANNUAL REPORT.—Section 30 of the Toxic Substances Control Act (15 U.S.C. 2629) is amended—

(A) in paragraph (1), by inserting ''and title V'' after ''section 4'';

(B) in paragraph (2)—

(i) by inserting ''or title V'' after ''section 5'';

(ii) by inserting ''or title V'' after ''section 4''; and

(iii) by inserting ''or title V'' after ''section 5(g)''; and

(C) in paragraph (3), by inserting ''or title V'' after ''section 6''.

(19) TABLE OF CONTENTS.—The table of contents of the Toxic Substances Control Act (15 U.S.C. prec. 2601) is amended by adding at the end the following:

''TITLE V—CHILD SAFE CHEMICALS

''Sec. 501. Definitions.
''Sec. 502. Manufacturer safety certifications for existing chemicals in commerce.

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